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THIRD COMMITTEE
Agenda item 101

PROMOTION AND PROTECTION OF THE RIGHTS OF CHILDREN

Letter dated 4 November 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia addressed to the Secretary-General

I have the honour to transmit, enclosed herewith, the comments of the Government of the Federal Republic of Yugoslavia on the necessity of adopting effective measures for the promotion and protection of the rights of children throughout the world who are victims of especially difficult circumstances, including armed conflicts.

I should be grateful if you would circulate the present letter and its annex as a document of the General Assembly under agenda item 101.

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

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Annex

1. The Government of the Federal Republic of Yugoslavia supports the decision that item 101 be considered at the forty-ninth session of the General Assembly. It is of the opinion that children who have been deprived of the fundamental rights guaranteed under the Convention on the Rights of the Child - the right to life, the highest levels of health care and a carefree childhood - be considered the victims of especially difficult circumstances.

2. This issue was raised by the Federal Republic of Yugoslavia in October 1993 before the Committee on the Rights of the Child as well as in the other United Nations forums.

3. Secession by some republics from the former Socialist Federal Republic of Yugoslavia, followed by the devastating effects of the war in its neighbourhood and coupled with Security Council sanctions, have rapidly and dramatically worsened the overall social and economic situation in the Federal Republic of Yugoslavia.

4. Consequently, the living standard of children in the Federal Republic of Yugoslavia has also deteriorated. Neither parents nor the State can provide adequate living conditions for the physical, mental, spiritual, moral and social development of children under present circumstances.

5. The Federal Republic of Yugoslavia deems it necessary to bring to the attention of the General Assembly the fact that, despite the enormous efforts of the competent authorities and individuals, the most basic right of the child - the right to life, survival and development - has been threatened by the implementation of the sanctions. That is why the children in the Federal Republic of Yugoslavia, including the refugee children, are and will continue to be in a disadvantaged position compared to the children from other signatory countries.

6. The consequences of the United Nations sanctions adversely affect the health of the population, especially children and expectant mothers as well as women, as the most vulnerable groups. The statistical facts already indicate that the well-being of children is threatened from the moment of their birth. Long-time exposure to stress and the ensuing failure of immunological defence mechanisms has caused large-scale illnesses. Psychological pressure, tension, the feeling of hopelessness and disorientation seriously impaired the emotional stability of children. Inadequate nutrition, in terms of quality and quantity, combined with the lack of cleansing agents threaten the health of children.

7. It is too early to anticipate fully the adverse effects of the present sanctions on the health of children. However, some statistical and research data already indicate drastic and lasting effects of the sanctions on the health of children and women.

8. Compared to the previous period, the percentage of newborn babies who did not receive adequate professional assistance is on the increase. In the 1991-1992 period, the following anomalies have been in evidence: diseases affecting

the foetus have increased by 137 per cent; slow growth of the foetus increased by 78.8 per cent; prenatal disorders by 24.8 per cent and complications at childbirth by 14 per cent. All of the above are a result of unsatisfactory standards of living and inadequate health care.

9. According to the latest data, the infant mortality rate has increased owing to intestinal infections and diseases, respiratory ailments, congenital disorders in the prenatal period, etc.

10. The increase in morbidity stems from the increased number of contagious diseases, tuberculosis and behavioural disorders. In addition, the incidence of diseases in children such as diarrhoea, contagious diseases, anaemia and rheumatic fever, is on the rise.

11. The results of a recent study indicated an increase in the number of carditis cases and severe forms of this ailment. Streptococcal infections are on the rise. The epidemics of contagious diseases multiplied. Sometimes, the number of the affected and dead has quadrupled compared to the pre-sanctions period.

12. The number of deaths from measles has increased. Although there is an efficient vaccine against this and other contagious diseases, the protection chain was broken, causing the disease to spread, assuming epidemic proportions. Likewise, although tubercular meningitis has been known to occur in this region, in 1992 and 1993 the most malignant forms appeared with a high mortality rate or else grave impairments.

13. The following are some of the indicators that testify to the drastic deterioration in the health of the population in the Federal Republic of Yugoslavia, children in particular, in the wake of the sanctions. The number of contagious diseases affecting children in the first months of 1993 was seven times greater than in 1991. In the first three months of 1993, the number of registered cases of death was three times greater than in the same period of 1992. The number of registered epidemics in 1992 was 32.4 per cent greater than in 1991.

14. Also, the situation with regard to immunization became much more difficult after the introduction of the sanctions. As a result of shortages, a considerable number of children were not covered by vaccines.

15. The quality of health care has been seriously jeopardized even in the most prestigious health institutions. That is reflected in the incomplete implementation of the diagnostic procedure, growth of inaccurate diagnoses, smaller number of laboratory tests, growth of hospital morbidity. It is practically impossible to carry out complex surgery with domestic supplies. The lack of equipment, medical supplies and anaesthetics makes it very difficult to perform surgeries on children.

16. Medical check-ups for pre-school and schoolchildren in out-patient clinics and regular visits to doctors in 1992 have also been on the decline compared to the previous period.

17. The overriding cause for the above health-related problems is the inability to provide medical supplies and equipment for health-care institutions. Although the import of medications, pharmaceutical precursors, sanitary materials and medical equipment is not banned by the United Nations sanctions, in practice, however, various obstacles stand in the ways, e.g., time-consuming procedures for obtaining approvals of the Security Council Sanctions Committee or deliberate delay of humanitarian goods by some countries although the shipment has been duly authorized by the Committee, etc.

18. Enormous efforts were made to prevent, ease, overcome and alleviate all of the above problems in health care through severe cutbacks, but to no avail. In an attempt to illustrate the seriousness of the situation, the Federal Republic of Yugoslavia has repeatedly provided compelling evidence and data to this effect to the international organizations.

19. Difficult economic situation aggravated by the Security Council sanctions are the main reasons that the right of children to an adequate standard of living and to the fulfilment of existential needs are threatened. Despite efforts and measures taken by the Government, the functioning of the social welfare system including child care, has worsened. For example, in the face of rampant inflation, various forms of assistance (paid maternity leave, financial support for unemployed mothers, free supplies for babies, child-support payments, etc.) have practically lost value.

20. The situation in the field of education, which used to be free, as well as the standard of students, is extremely bleak owing to the lack of necessary funds for school supplies and modernization (computers, television sets, videotape recorders). For example, as a result of the fuel shortage, the schools were compelled to extend winter recess from three to six weeks and children were experiencing difficulties in transportation. The quality of learning took a turn for the worse in the wake of discontinued international cooperation and communications, important in the exchange and promotion of educational concepts.

21. Refugee children, already affected by the war, have been additionally hit by the sanctions. The free education and health-care services that they receive in the Federal Republic of Yugoslavia cannot alleviate the suffering brought upon them in the wake of war destruction, loss of homes and family. Although the Government of the Federal Republic of Yugoslavia is doing its utmost to provide adequate accommodation and living conditions for those children in extremely adverse economic situations, they seem to be more prone to mental disorders, juvenile delinquency, alcohol and drug abuse, prostitution and suicide.

22. Children of all nations and races are the future of mankind, tokens of love, patience and hope, but also quite often the most vulnerable category and most often victims of conflicts and wars waged by their elders.

23. The Government of the Federal Republic of Yugoslavia fully supports the efforts of the General Assembly to have the problems related to children affected by war conflicts identified so that all available measures can be taken to mitigate their plight. The Government of the Federal Republic of Yugoslavia

in principle has no reservations concerning the adoption of an Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, since the solutions offered in the Optional Protocol correspond to the legislation in the Federal Republic of Yugoslavia. However, the Government of the Federal Republic of Yugoslavia considers that the future Protocol should primarily include provisions for the strengthening of existing humanitarian standards and for the prevention of various forms of abuse of children in armed conflicts for the purpose of attaining political goals.

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 2 November 1994 from the Permanent Representative of Myanmar to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a memorandum in connection with General Assembly resolution 48/150 of 20 December 1993, entitled "Situation of human rights in Myanmar".

I should be grateful if the aforementioned memorandum could be circulated as a document of the General Assembly, under agenda item 100 (c).

(Signed) Win MRA
Ambassador
Permanent Representative

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ANNEX

Memorandum relating to General Assembly resolution 48/150

Background

On the recommendation of the Third Committee, the General Assembly at its forty-eighth session adopted resolution 48/150, entitled "Situation of human rights in Myanmar". First, the resolution flagrantly attempted to interfere in the internal affairs of the Union of Myanmar. Second, it completely ignored the principles reaffirmed in the Vienna Declaration, namely, the principles of impartiality, objectivity and non-selectivity, on the promotion and protection of human rights. Thirdly, it was characterized by glaring negativism as regards the historic and significant developments taking place in Myanmar. For these reasons, the resolution was totally unacceptable to the Government of Myanmar and the Myanmar delegation dissociated itself from its adoption.

The resolution on Myanmar primarily contains the following elements and allegations:

(a) Restoration of democracy in accordance with the will of the people as expressed in the democratic elections in 1990; lack of progress in the National Convention; participation of the armed forces in a leading role in the future political life of the State;

(b) Protection of the rights of persons belonging to ethnic and religious minorities; torture; forced labour; summary executions, etc.;

(c) Continued violations of human rights in Myanmar; human rights instruments; access to prisons to be given to international humanitarian agencies;

(d) Flows of refugees to neighbouring countries;

(e) Release of Daw Aung San Suu Kyi;

(f) A request to the Secretary-General to assist in the implementation of the resolution and to report to the General Assembly at its forty-ninth session.

In the meantime, many positive developments have taken place in Myanmar and, seen in the context of new developments and other progress Myanmar has achieved, the elements in the resolution have become irrelevant. With a view to enabling the States Members of the United Nations to review the situation in Myanmar in its true perspectives, the following information is provided as regards the elements which are dealt with in the resolution in question.

National convention (restoration of democracy)

The resolution mentions the lack of progress in the National Convention.

The concerns about the perceived lack of evident progress in the National Convention are misplaced and demonstrate gross misunderstanding of the objectives and priorities of the Government of Myanmar. The Government of Myanmar is irreversibly committed to the establishment of a multi-party democratic society in the country through the process of National Convention. Many concrete results have been achieved by the National Convention.

The previous sessions of the National Convention have prescribed the chapter headings of the Constitution in their proper order and reached consensus on 104 fundamental principles of the State and detailed principles to serve as basis in the chapters "The State", "The State Structure", and "The Head of State". The National Convention which resumed on 2 September 1994 is having discussions on the matter of self-administered divisions or self-administered zones. After that, discussions will be held on the chapter headings "The Legislature", "The Executive" and "The Judiciary".

It may therefore be stated that the National Convention has achieved significant progress. The ongoing National Convention is a systematic political process in which political party delegates, representatives-elect, national races delegates, peasant delegates, worker delegates, intelligentsia delegates, service personnel delegates and invited persons participate. These delegate groups enjoy ample opportunity to present their views in an open and frank manner without hinderance. The major points in the statements made by the delegates are given wide media coverage. In the process of discussions, positive ideas and suggestions are sought from the delegates to obtain principles to serve as bases in writing the Constitution. With the participation of delegates representing various strata of the Myanmar population, the highly representative character of the National Convention is evident. The fact that the delegates can express divergent views in the full glare of the media is the proof of a truly democratic process going on in the National Convention.

The State Law and Order Restoration Council will not prolong the process unnecessarily. It is incumbent upon the delegates to strike a balance between the need to reach consensus among themselves on the vital issue of national races and the desire for the completion of the process in appropriate time.

The assertion that democracy should be restored in accordance with the will of the people as expressed in the democratic elections of 1990 is totally erroneous for the mandate of the representative elected in the 1990 elections is not to form a government but to draft a new constitution reflecting the democratic aspirations of the people. This drafting exercise has started through a process of free and open deliberation and mutual accommodation at the National Convention as mentioned above.

Role of the Myanmar armed forces (Tatmadaw)

Concern has been expressed with regard to the participation of the armed forces in a leading role in the future political life of the State.

The true situation is that the role envisaged for the Tatmadaw (armed forces) is a role in keeping with Myanmar's historical traditions. The history of modern Myanmar is synonymous with the history of the Tatmadaw. Since the time of the Myanmar struggle for national independence, it has been in the forefront of national politics. The Tatmadaw has always stayed above party politics. But it has always shouldered its primary responsibility of ensuring the non-disintegration of the Union, the non-disintegration of national solidarity and the consolidation of national sovereignty. To deny the leading institution of the country the corresponding role in the political life of the State will be unrealistic and illogical.

National reconciliation (protection of the rights of minorities)

The resolution urges the protection of the rights of persons belonging to ethnic and religious minorities. Contrary to the allegation, this is the area in which the Government has made the most dramatic achievements.

Since Myanmar is a Union made up of over 100 different national races, unity among the national races is vital for the preservation of the independence and sovereignty of Myanmar as well as for economic and social progress of the country. Beset with internal strife started by various armed groups immediately after independence, Myanmar had lagged in economic development far behind other nations in the region. The State Law and Order Restoration Council therefore attaches great importance to the strengthening of unity and solidarity among all national races. Since its inception, the State Law and Order Restoration Council has been giving priority to the achievement of national reconciliation. One year after assumption of State responsibilities, the State Law and Order Restoration Council made overtures to the armed groups to return to the legal fold. In parallel with these overtures, the State Law and Order Restoration Council strove for the development of border areas and national races. To demonstrate their genuine goodwill to the armed groups, the armed forces have unilaterally suspended military offensives against the armed groups since April 1992. With full trust in the sincerity of the Government, the following armed groups have returned to the legal fold as from 9 October 1994:

1.	Myanmar National Democracy Alliance (MNDA)	31 March 1989
2.	Myanmar National Solidarity Party (MNSP)	9 May 1989
3.	National Democracy Alliance Army Military and Local Administration Committee (NDAA)	30 July 1989
4.	Shan State Army (SSA)	24 September 1989
5.	New Democratic Army (NDA)	15 December 1989
6.	Kachin Defence Army (KDA)	11 January 1991

7.	Pa-O National Organization (PNO)	18 February 1991
8.	Palaung State Liberation Army (PSLP)	21 April 1991
9.	Kayan National Guards (KNG)	27 February 1992
10.	Kachin Independence Organization (KIO)	1 October 1993
11.	Kayinni National Liberation Front (KNLF)	9 May 1994
12.	Kayan Pyithit Party	26 July 1994
13.	Shan State Nationalities Peoples' Liberation Organization	9 October 1994

All these armed groups have agreed to renounce the armed struggle and to implement in concert with the Government the projects for regional peace and tranquillity and progress. There remain only two armed groups in Myanmar, namely, Mon and The Karen National Union. The Mon group has had three rounds of peace talks with the Government.

Over 40 years of internal strife have impeded the progress of the country. As a legacy of the colonial past, mistrust ran deep among the national races. The loss of life and property from insurgencies was immense. The present leadership has therefore realized that the progress of the country is inconceivable without solving the question of national races. Hence, achievement of national reconciliation has become the priority task on the national political agenda. The return of 13 armed groups to the legal fold is a significant political breakthrough which must be given due recognition.

The demands for the protection of the so-called ethnic minorities appear to have stemmed from prejudice against the Government of Myanmar rather than the genuine concerns about human rights. Instead of making such undue demands, the Government of Myanmar should be given full encouragement to enable it to build upon the achievements in the national reconciliation.

Development of border areas

Development of the border areas where many national races reside is one of the priority objectives of the present Government. As early as May 1989, the Central Committee and the Work Committee for the Development of Border Areas and National Races were established. To implement the development projects, a separate Ministry for the Development of Border Areas and National Races was established. This Ministry was reorganized into the Ministry of Progress of the Border Areas and National Races and Development Affairs in June 1994. At present, we have in place a master plan to implement the development of border areas and national races, covering a period of 11 years, from 1992/93 to 2003/04. The main objective of the master plan is poverty alleviation while at the same time eradicating poppy cultivation. During the period of the master plan, development works will be carried out in 18 regions in the north-west of the country which constitute 33.2 per cent of the total area of the country.

In view of this serious effort by the Government for the socio-economic advancement of the national races, there remains no justification at all for the clamour about the protection of the rights of the persons belonging to the so-called ethnic minorities.

Human rights

There have been persistent allegations that violations of human rights continue in Myanmar. It defies understanding that these unsubstantiated and unverifiable allegations are given credence regardless of the detailed replies to the allegations provided by the Government of Myanmar in response to the queries from the United Nations. It is not the policy of the Government of Myanmar to repress its own people or to condone human rights abuses. In addition, human rights have been observed in Myanmar as a matter of custom and tradition.

The Government of Myanmar is giving priority to the elimination of poverty, which is one of the most pressing human rights issues in the world today, and the narrowing of the gap between the rich and the poor; the city dwellers and the rural folk. Efforts are also being made to ensure that all citizens have equal opportunity in their access to food, housing, transportation, employment, education and health services.

We have permitted United States Congressmen and congressional aides to visit Insein jail and interview some inmates so that they could verify the allegations of human rights. The Special Rapporteur has also visited the Insein jail. The Government has also taken diplomats and visiting dignitaries and journalists to some areas of alleged human rights abuses such as the Myanmar-Bangladesh border area. In the first six months of 1994, nearly 100 foreign journalists, including television correspondents, visited Myanmar to see for themselves, first hand, the objective situation in Myanmar.

In another act of transparency and in deference to the United Nations, the Government of Myanmar has decided to receive the Special Rapporteur, Professor Yozo Yokota, this year again.

Allegations concerning torture, ill-treatment of prisoners, summary executions, forced labour, etc.

Allegations concerning torture, ill-treatment of prisoners, summary executions, forced labour, etc. are totally devoid of truth. They are unsubstantiated and emanate invariably from anti-government sources.

Torture, ill-treatment of prisoners and degrading punishment are strictly prohibited by law. The Prisons Act of 1894, which predates Myanmar's independence from the British, contains provisions to ensure that whoever commits torture on any detainee is liable to both imprisonment and fine.

There are no cases of summary executions committed as part of government policy. All defendants punishable by death in accordance with the Penal Code are entitled to due process of law. They are given a fair trial and provided

with defence counsel. They can exercise the right of appeal in accordance with the appeal procedure.

Allegations of forced labour stem from misunderstanding or ignorance of the Myanmar tradition and culture. Voluntary contribution of labour is a tradition which goes back thousands of years. People are free to contribute labour voluntarily and there is no coercion at all involved. Although such contribution of labour is voluntary in nature, the Government, in recognition of their contributions, has made substantial payment of remunerations for the community development of the local populace in the areas concerned.

Concerns about the rights of religious minorities are unfounded and misplaced. Myanmar is never reputed to be intolerant of religious minorities. The peaceful coexistence of the four religious, namely, Buddhism, Islam, Christianity and Hinduism, in Myanmar validates this claim. The independent expert of the Commission on Human Rights stated categorically in her report (E/CN.4/1991/R.3 of 27 October 1990) that, in the matter of religious tolerance, Myanmar society may be regarded as a model society. No remark can be more valid than an impartial one made by the independent expert.

References to these allegations in the resolution should be deleted.

Human rights instruments

The resolution appeals to the Government of Myanmar to consider becoming a party to human rights instruments.

Although Myanmar is not yet a party to the two international covenants on human rights mentioned in the resolution, Myanmar abides by those provisions and principles embodied in the covenants which are taken from the Charter of the United Nations and the Universal Declaration of Human Rights or have attained the status of rules of customary international law.

There are 68 internal laws and acts in Myanmar for protection of human rights. These laws, as well as customs, traditions and practices in Myanmar, are in fact in consonance with the provisions of international human rights instruments.

Myanmar and humanitarian agreements

Myanmar's commitments to humanitarian principles have been years-long and these principles have been not only part of the educational and training process in the Myanmar armed forces but also part of the values cherished by the Myanmar people for years.

Myanmar acceded to the four Geneva Conventions of 1949 in August 1992. With the cooperation of the International Committee of the Red Cross (ICRC), training programmes were conducted in Myanmar for officers ranging from Technical Operations Commanders to Lower-level officers. Under the auspices of ICRC, officers were sent to Geneva for training in the law of the war. Courses in humanitarian law form part of the curricula in the Defence Services Academy and other colleges in Myanmar. The Special Rapporteur in his report

(E/CN.4/1994/57) welcomed the undertaking of the courses for the officers of the armed forces.

Preparations for the signing of a Memorandum of Understanding with ICRC are under way.

Transborder movement of people (flows of refugees to neighbouring countries)

It is in the nature of things that some issues arise from time to time between neighbouring States. In such cases to seek peaceful solutions based on mutual goodwill, respect and understanding is a sine qua non for continued harmony in the relations between the States concerned and for regional peace and security. In its conduct of foreign policy, Myanmar is always guided by this principle. This policy has been vindicated in Myanmar's approach to the matter of transborder movement of people between Myanmar and Bangladesh. Despite various allegations against Myanmar, with some even invoking the potential of the situation for regional destabilization, Myanmar was determined to solve the situation in the spirit of mutual friendship and understanding and acted accordingly. In April 1992, the Government of Myanmar signed a bilateral agreement with the Government of Bangladesh and has been faithfully implementing that agreement. On 5 November 1993, the Government of Myanmar signed a Memorandum of Understanding with the Office of the United Nations High Commissioner for Refugees (UNHCR).

The Memorandum of Understanding provides for the presence of UNHCR on the Myanmar side of the border and guarantees the returnees the same freedom of movement as all other nationals. It also provides for means to enhance the economic stability and well-being of the returnees.

Myanmar is fully committed to the voluntary and safe repatriation of returnees and will be scrupulously faithful in implementing the agreements and arrangements made between the parties concerned. As at late September, over 75,000 returnees have been repatriated. Another 45,000 will return by the end of 1994.

Transborder movements on the eastern borders are mainly due to the border inhabitants seeking temporary shelter from armed clashes in the area. The inhabitants invariably return to their place of origin once the situation returns to normal.

Myanmar will continue to seek a peaceful solution to the problem of transborder migration of people wherever it occurs in the spirit of good-neighbourliness which exists between Myanmar and its neighbours, in the context of bilateral mechanisms or through bilateral channels. Reference to this problem in the resolution is therefore considered out of place.

Recent positive developments

Recently, many positive developments have occurred in Myanmar. The National Convention has achieved significant progress. The Government's genuine and sincere attempts at national reconciliation have led to the return to the legal fold of a total of 13 armed groups with only Mon and Karen National Union

remaining outside the legal fold. Furthermore, these groups have been provided with the opportunity to participate in the national political process of the country, namely, the National Convention.

In late September, Myanmar started an initial dialogue with the troika of the European Union in the most frank and cordial atmosphere. Although Myanmar dissociated itself from the adoption of the resolution on human rights referred to above, for reasons given above, in the spirit of cooperation Myanmar has made every effort to extend as much cooperation as possible to the United Nations. As desired by the Secretary-General, the Government of Myanmar decided to establish a dialogue with the United Nations to exchange views on various issues of common concern. U Ohn Gyaw, Minister for Foreign Affairs of the Union of Myanmar, representing the Government of Myanmar, has had three meetings with the Under-Secretary-General for Political Affairs, representing the Secretary-General, on 3, 6 and 12 October 1994 and the dialogue will continue in Yangon in the near future. One of the positive developments is the meeting between Senior General Than Shwe, Chairman of the State Law and Order Restoration Council, and Daw Aung San Suu Kyi in Yangon on 20 September 1994. On 28 October 1994, Lieutenant General Khin Nyunt, First Secretary of the State Law and Order Restoration Council, met with Daw Aung San Suu Kyi in a cordial atmosphere. The discussions, which were frank and cordial, covered the current political and economic situation of the country, the political and economic reforms which the State Law and Order Restoration Council is in the process of implementing and steps that should be taken with a view to the long-term welfare of the nation.

Consideration of the question of the situation in Myanmar at the forty-ninth session of the General Assembly

In view of the above-mentioned developments of significance, Myanmar believes that there is no valid ground for the adoption of a similar resolution on Myanmar at the current session of the General Assembly. The foregoing positive developments and considerations indeed warrant deferral of the consideration of any draft resolution on Myanmar to a future session of the Assembly. Accordingly, Myanmar wishes to urge the Member States to refrain from pursuing any action that might hamper the continuation of the ongoing constructive cooperation between Myanmar and the United Nations. However, if a draft resolution is to be introduced at the current session, it should faithfully reflect all the positive developments that have taken place in Myanmar.

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 11 November 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith information from the Government of the Federal Republic of Yugoslavia concerning the status and rights of the Bulgarian national minority in the Federal Republic of Yugoslavia (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the General Assembly under agenda item 100 (c).

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

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ANNEX

1. The Permanent Representative of the Republic of Bulgaria to the United Nations circulated a document (A/49/455, dated 29 September 1994), the annex to which is entitled "Situation of the Bulgarian minority in the Federal Republic of Yugoslavia". The said document contains numerous falsehoods about the status and exercise of the rights of the members of the Bulgarian national minority in the Federal Republic of Yugoslavia.

2. The following information on the status and rights of members of the Bulgarian national minority in the Federal Republic of Yugoslavia is intended to rectify the allegations contained in the said document.

Number of members of the Bulgarian national minority

3. According to the last census taken in 1991, 26,922 persons living in the territory of the Federal Republic of Yugoslavia declared themselves as Bulgarians. They account for 0.2 per cent of the total population of the Federal Republic of Yugoslavia and are the tenth largest minority group by number. Members of the Bulgarian minority live in central Serbia and are concentrated in the municipalities of Bosilegrad (72.9 per cent), Dimitrovgrad (52.5 per cent) and Surdulica (6.2 per cent). The downward trend in the number of the Bulgarian national minority is not the result of an active assimilation, as alleged by the Bulgarian side, but of natural migration for economic and other reasons evident also in other regions of the Federal Republic of Yugoslavia. Accordingly, the allegations concerning the premeditated assimilation policy against members of the Bulgarian minority are untrue.

Representation in government

4. In the Municipal Assembly of Dimitrovgrad 97 per cent of deputies are members of the Bulgarian national minority. The Mayor, Secretary and Chairman of the Executive Board are also members of the Bulgarian national minority. Out of the total number of judges of the Municipal Court, 75 per cent are Bulgarians, including the President of the Court, as well as 66 per cent of the employees of the Police Department, including the Head of the Department, and 89 per cent of general managers in various firms and companies. All deputies of the Municipal Assembly of Bosilegrad are members of the Bulgarian national minority.

5. The allegation concerning the systematic fragmentation of the ethnic Bulgarian municipalities through the administrative and territorial division of the Federal Republic of Yugoslavia is unacceptable interference in the internal affairs of a sovereign State. The administrative and territorial division is motivated exclusively by rationalization and a more effective functioning of State organs in these regions.

Religious rights

6. As to the protection of the freedom of religion and belief, the Constitution and laws of the Federal Republic of Yugoslavia, including those of the Republic of Serbia, are in full compliance with the international standards in this field. A detailed report on the specific aspects and exercise of religious freedoms and rights was circulated by the Government of the Federal Republic of Yugoslavia as an official document of the General Assembly and the Economic and Social Council (A/49/264-E/1994/113 of 19 July 1994), the annex to which is entitled "Information from the Federal Republic of Yugoslavia on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief". As to the allegation in document A/49/455 that "the Bulgarian churches and monasteries ... are in wretched condition, some of them being in ruins", the said report of the Government of the Federal Republic of Yugoslavia (A/49/264-E/1994/113, annex, para. 27) says: "All religious communities, in accordance with the number of believers and their needs, build new and maintain the existing places of worship ... About 100 new Orthodox churches are currently being constructed in the Republic of Serbia ... Through the Republican Administration for the Protection of Cultural Monuments, the Republic of Serbia provides considerable financial assistance for the protection of churches and monasteries and other religious institutions" of religious communities, including the facilities of the Bulgarian religious community.

Education

7. In the municipalities inhabited by Bulgarians, there are four elementary schools in Dimitrovgrad, Bosilegrad, Babusnica and Klisura with 2,210 pupils in separate classes. Instruction in these schools is either bilingual or in Serbian, with elements of the Bulgarian national culture, from the first form to the eighth form, with two classes per week. The bilingual instruction includes a more intensive and detailed teaching of the Bulgarian language and cultural values in the Bulgarian language. In the elementary schools in Dimitrovgrad, 93 per cent of the employees, including its principal, are members of the Bulgarian national minority.

8. Dimitrovgrad and Bosilegrad have two secondary schools with approximately 600 students of Bulgarian nationality; 90 per cent of the employees in the Dimitrovgrad secondary school, including its principal, are Bulgarians. This is also one of the most modern secondary schools in the Republic of Serbia, the purchase of whose equipment was financed from the republican budget (except for 10 per cent from local contributions).

9. The Belgrade Faculty of Philology has a Department for the Bulgarian Language headed by a professor of Bulgarian nationality. Two hundred Bulgarians study in the Republic of Serbia. Accordingly, the allegation that the Bulgarian language has never been studied at universities in the Federal Republic of Yugoslavia is untrue.

Publishing activity and information

10. Publishing activity in the Bulgarian language is carried out through the "Bratstvo" news and publishing agency in Nis, founded in 1959. This agency publishes the newspaper Bratstvo, the children's magazine Drugarce and a magazine for literature, art, scientific and social issues Most, whose editors edit and publish books. Publishing activity in Bulgarian is jointly financed by the competent ministries in amounts not smaller than those earmarked for other national minorities, with the exception of the Hungarian minority, which is more numerous and whose publishing activity is more diversified.

11. The import of books, newspapers and publications from other countries into the Federal Republic of Yugoslavia is allowed and regulated by separate laws. A breach of these laws is punishable in the Federal Republic of Yugoslavia as in any other State based on the rule of law, so that the allegation that "local authorities often confiscate Bulgarian newspapers and other publications imported from Bulgaria" is untrue.

12. RTV Serbia, through the Nis Radio Station, broadcasts a 15-minute daily programme in Bulgarian (30 minutes on Sundays), while Belgrade Television has been broadcasting a 15-minute Sunday journal in Bulgarian for the past 17 years. During its last allocation of radio frequencies, the Government of the Republic of Serbia allocated one to the Municipal Assembly of Dimitrovgrad.

13. As regards Bulgaria's reference to the sixth periodic report of the Special Rapporteur for human rights, Mr. T. Mazowiecki (E/CN.4/1994/110, paras. 124 and 125), who incidentally never visited the region inhabited by the Bulgarian national minority in the Federal Republic of Yugoslavia. It is recalled that the Government of the Federal Republic of Yugoslavia denied the unsubstantiated allegations of Mr. T. Mazowiecki in its comments circulated as an official United Nations document (A/49/273-S/1994/864 of 22 July 1994).

Culture

14. The Federal Republic of Yugoslavia has a long tradition of maintaining the national culture of the members of the Bulgarian national minority, the aim of which is to preserve their national and cultural identity. Cultural and artistic activity is carried out through the work of the Cultural Centre in Dimitrovgrad and Bosilegrad, with cinemas, libraries and numerous folk, music, reciting and other performing groups. There are also two cultural-artistic societies, Mladost at Bosilegrad with 85 members and Georgi Dimitrov at Dimitrovgrad with 73 members.

15. The Hristo Botev amateur theatre, with 30 members, performs in the Bulgarian language and has been active for 106 years. This prestigious amateur theatre has participated in a number of theatrical events in Serbia and the Federal Republic of Yugoslavia. The Theatre Workshop within this theatre staged several pieces in 1994, including "Borjana", the classic piece of Bulgarian drama, directed by a professional director from Sofia. Accordingly, it is untrue that the theatre in Dimitrovgrad has changed its name, as claimed in the document of the Bulgarian Mission to the United Nations.

16. The City Library in Dimitrovgrad houses 30,000 books in the Bulgarian language and the City Library in Bosilegrad 14,000. Regular activities of these libraries include literature evenings and the promotion of books of Bulgarian authors. The work of all these institutions is subsidized from the Yugoslav Government budget. Accordingly, the allegation contained in the Bulgarian report that the City Library in Dimitrovgrad has been closed down in 1951 is untrue.

17. Cooperation between the cultural institutions of the Bulgarian national minority in the Federal Republic of Yugoslavia and relevant cultural institutions in Bulgaria, including exchanges of various cultural manifestations and visits, has a long and rich tradition.

Activities of political parties

18. The Constitution and laws of the Federal Republic of Yugoslavia lay down the framework and rules for the registration and activity of political parties, the use of the media, etc., which pertain to all political parties and associations in Yugoslavia without exception, including those of national minorities. Organizations of Yugoslav citizens, members of the Bulgarian national minority, are guaranteed equal democratic rights and opportunities as those of other Yugoslav citizens, and they freely exercise these rights without any restrictions.

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HUMAN RIGHTS QUESTIONS:

HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 11 November 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia addressed to the Secretary-General

I have the honour to transmit, enclosed herewith, the information prepared by the Government of the Federal Republic of Yugoslavia concerning General Assembly resolution 48/122 and Commission on Human Rights resolution 1994/46 entitled "Human rights and terrorism" (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the General Assembly under agenda items 100 (b) and (c).

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

ANNEX

1. Yugoslavia is a signatory to the 1937 Convention for the Prevention and Punishment of Terrorism and complies with the United Nations resolutions on international terrorism.

2. Article 123 of the Criminal Code of the Federal Republic of Yugoslavia entitled "Terrorism" determines the basic form of this criminal act and provides legal protection against terrorism.

3. The action in the commission of such a criminal act is described as an undertaking of a generally dangerous action or a commission of an act of violence.

4. A generally dangerous action is an action which is minatory to an unspecified person and unspecified property. Such an action may be directed against a specified person and specified property, but its effects cannot be fully foreseen so that by itself it constitutes a general danger not only to the person or property against whom/which it is directed but also to other persons or property. Arson and the planting of explosives are listed in the Code as typical examples of such generally dangerous actions, but these actions may include other actions of similar effect, such as the use of poison or poisonous gas, ionized radiation, motor power, electric or other energy, etc.

5. An act of violence as an action of the commission of the criminal act of terrorism is to be understood as the use and threat of use of force which may result in this criminal act; the creation of the feeling of insecurity among citizens. Although so provided by the Code, the creation of the feeling of insecurity among citizens need not be the only consequence of the commission of terrorism.

6. In addition to the said article, article 132 of the Criminal Code of the Federal Republic of Yugoslavia provides for the punishment of 1 to 10 years in prison of the persons sending or smuggling terrorists to the territory of the Federal Republic of Yugoslavia.

7. Article 136 of the said Code defines as a criminal act, inter alia, association for the purpose of committing the criminal act of terrorism. Under the article, those hatching a plot or setting up a gang, a group or another association for the purpose of committing this criminal act will be punished with 1 to 10 years in prison. Also, those becoming members of the said associations will be punished with 6 months to 5 years in prison. For criminal and political reasons, the said article provides also for a lesser punishment and the acquittal of the perpetrator of the criminal act of terrorism who, by uncovering an association or in some other way, prevents the commission of the criminal act of terrorism and for a member of an association who uncovers the association before he or she commits the criminal act of terrorism either as its member or for the association.

8. Article 137 of the said Criminal Code provides for the punishment of 1 to 10 years in prison of a person who assists the perpetrator of the criminal act

of terrorism by hiding him or her, providing him or her shelter, food, material, financial or other means, by enabling the perpetrator to maintain contact, or by undertaking an action directed at impeding the detection or capture of the perpetrator, or by assisting him or her in any other way. However, in the context of assisting the perpetrator in the commission of the criminal act of terrorism, the Criminal Code of the Federal Republic of Yugoslavia does not provide for the punishment of the perpetrator's spouse, a person permanently living with him or her in an extramarital union, or a next of kin in the direct line, brother or sister, as well as his or her ward or guardian and their spouses and persons with whom they permanent live in an extramarital union.

9. The preparation of the criminal act of terrorism is punishable with 1 to 10 years in prison under article 138 of the said Code.

10. Article 139 of the same Code defines, inter alia, the gravest form of the criminal act of terrorism; the perpetrator of the criminal act of terrorism will be punished with not less than 10 years in prison if the commission of the criminal act has resulted in the death of one or more persons; if it puts in jeopardy the life of people; if it is followed by brutal violence or vast destruction; if it has led to threats to the security, the economy or the military forces of the country; or if, during the commission of the criminal act of terrorism, the perpetrator kills one or more persons with premeditation. The perpetrator who commits the criminal act of terrorism during a state of war or in the event of an imminent threat of war will be punished with the same punishment of not less than 10 years in prison.

11. The United Nations has condemned terrorism on many occasions and General Assembly resolution 48/122 of 20 December 1993 condemns all acts, methods and practices of terrorism wherever, whenever and by whomsoever committed. Under this resolution and under the resolution adopted by the United Nations Commission on Human Rights at its fiftieth session, terrorism implies, inter alia, activities aimed at the destruction of human rights and fundamental freedoms, whereas the State is obligated to protect these rights and freedoms.

12. Bearing this in mind, the State is obligated to ensure for all its citizens, for each and every human being, regardless of the danger he or she may pose, minimum respect of his or her human rights, in which way it demonstrates respect for his or her human dignity and personal integrity. This is the limit to go to in granting human rights and fundamental freedoms to terrorists. Terrorists may be deprived of all other human rights, or those rights may be limited, not only because of the danger posed by terrorism as a phenomenon, but also because of its frequent recourse to and excessive level of brutality, harshness and inhuman and unethical behaviour, etc.

13. Deprivation or limitation of human rights in the context of terrorism has been the subject of both international instruments and national legislation.

14. Speaking of the Federal Republic of Yugoslavia, one should bear in mind the overall political situation in Yugoslavia, which is used as a smokescreen by various terrorist groups to disguise their terrorism as a struggle for human rights and fundamental freedoms and, in particular, for national minority rights.

15. The 1992 Constitution of the Federal Republic of Yugoslavia, in its entire chapter 2 (arts. 19-68), deals with the freedoms, rights and duties of citizens, guaranteeing them to all citizens irrespective of their national origin. The Federal Republic of Yugoslavia is a State with members of national minorities and various ethnic groups accounting for almost one third of its overall population. The federal State and its constituent republics, Serbia and Montenegro, are defined by their constitutions as states based on the equality of all their citizens, which means that, irrespective of whether they belong to the Serb or Montenegrin people or to national minorities or ethnic groups, their citizens enjoy equal human rights and fundamental freedoms. Moreover, members of national minorities are granted, both individually and collectively, special additional rights (such as the use of their own language and alphabet, education and public communication in their own language, educational and cultural organizations, associations, etc.).

16. All these rights and those to which members of national minorities are entitled under the Constitution of the Federal Republic of Yugoslavia, such as the right to maintain, develop and express their ethnic, linguistic and other specificities, are often alleged to be insufficient by members of some minorities, who resort to various terrorist acts, most often in the territory of the Autonomous Province of Kosovo and Metohija and the Raska area, in an effort to achieve, under this pretext, their political goals based on separatism.

17. Invoking alleged human rights violations, but in fact set on forcibly destroying the territorial integrity of Yugoslavia, numerous secessionist and terrorist organizations are active in Serbia and Montenegro among the members of Albanian and Muslim national minorities. It has been reliably proved that the Democratic Alliance of Kosovo (DAK), headed by Dr. Ibrahim Rugova, is the main terrorist organization of ethnic Albanian secessionists, and that the Party of Democratic Action (PDA) is the main terrorist organization of Muslim secessionists. It has also been ascertained that both these organizations have manifold ties with Turkey and Albania. In point of fact, Albania and Turkey sponsor international terrorism against the Federal Republic of Yugoslavia since, in addition to various forms of direct and indirect support, they provide shelter and military training to Albanian and Muslim terrorists from the Federal Republic of Yugoslavia in their territories. Upon completion of training for terrorism and sabotage, these persons are sent back to the Federal Republic of Yugoslavia through various channels and with specific tasks: (a) selection and recruitment of new candidates for military training in Albania and Turkey; (b) collection of intelligence data on the Federal Republic of Yugoslavia and the Army of Yugoslavia for intelligence services in Albania and Turkey and on targets of terrorist attacks; (c) terrorist attacks against the organs and institutions of the Federal Republic of Yugoslavia, citizens of Serb and Montenegrin nationality and ethnic Albanians and Muslims loyal to the Federal Republic of Yugoslavia; (d) organization and training of terrorist groups and units for terrorist acts against the Federal Republic of Yugoslavia; and (e) activities aimed at provoking armed rebellion for the purpose of seceding Kosovo and Metohija, Raska and Polimlje from the Federal Republic of Yugoslavia.

18. By these activities, which contain all the elements of international terrorism, Albania and Turkey are in breach of the Universal Declaration of Human Rights and the Convention for the Prevention and Punishment of Terrorism.

19. Here are only some examples:

(a) Albania allowed DAK to open its office on the premises of the National Museum in Tirana, with the rank of "Embassy of the Republic of Kosova" (the inscription on the door reads "Representative Office of the Government of the Republic of Kosova");

(b) In this office, Ali Aliu, widely known terrorist and a member of DAK, is in charge of the military aspects of DAK terrorist organizations. He receives Albanian terrorists from the Federal Republic of Yugoslavia and sends them to the Labinot camp for military/terrorist training. He also keeps a record of all ethnic Albanians from the Federal Republic of Yugoslavia who have been given military training in Albania;

(c) Albania has enlisted professionals from its intelligence service, Lt.-Col. Mond Bejari, Major Lefter Nik, Captain Pren Llika, Sgt. Marash Xhoni and others, to organize military/terrorist training for Albanian terrorists from the Federal Republic of Yugoslavia. From 26 June 1992 to 26 January 1993 alone, 110 Albanian terrorists from the Federal Republic of Yugoslavia were trained under their supervision in the Labinot camp near Elbasan;

(d) Some 2,000 Albanian terrorists from the Federal Republic of Yugoslavia were trained at Labinot and in the camps near Tirana, Pishkopea and Shkoder;

(e) During the six-month training in these camps, Albanian terrorists were visited several times by the leaders of DAK (Zumber Berisha, Zeherijah Cana and Remzi Kolgeci) exhorting the trainees to do their very best to acquire all the necessary knowledge, so that, upon return to the Federal Republic of Yugoslavia, they could be ready to carry out all acts of insurgency requested of them;

(f) Upon completion of the training, each terrorist leaves his address with the camp organizers and instructors, undertaking the obligation to answer a possible call-up in the event of an armed rebellion in Kosovo and Metohija. The "Embassy of the Republic of Kosova" in Tirana must be notified of any change of address;

(g) Turkey allowed PDA to open its "Information Agency of the Sandjak Villayet" on Midhad Pasha Street in Ankara which masterminds Muslim terrorist organizations in the Federal Republic of Yugoslavia;

(h) Sulejman Ugljanin, PDA leader, and Mustafa Karamayoglu, Turkish intelligence officer, and their associates, headquartered in the "Agency" building, receive Muslim terrorists from the Federal Republic of Yugoslavia sent by PDA, detailing them either for studies or for military/terrorist training. The students are indoctrinated with Islamic fundamentalism and inculcated with hatred for the Serb people, whereas the trainees undergo a comprehensive military training which makes them first-rate international terrorists;

(i) By allowing them to enter and stay in Turkey, allegedly for "education" and "work", Turkey enabled some 2,000 Muslim extremists from the Federal Republic of Yugoslavia (Raska and Polimlje areas) to undergo military/terrorist training in 1992/1993;

(j) Turkey participated in the training of future international terrorists most directly by making available its military training camps at Urla and Akisar near Izmir and by enlisting for that purpose a number of its officers;

(k) During their training, lasting approximately three months, Turkey enabled a group of Muslim intellectuals, headed by Sefket Krcic and involved in various ways in the preparation of Muslim secessionists in the Federal Republic of Yugoslavia for armed rebellion, to visit the trainees in the camps;

(l) Upon completion of the training, the terrorists were allowed to go to the former Bosnia and Herzegovina and fight against the Serb people, fanning up in that way the civil war in that former Yugoslav republic, whereas some terrorists were sent back to the Federal Republic of Yugoslavia with specific assignments.

20. The above data on sponsoring of international terrorism by Albania and Turkey against the Federal Republic of Yugoslavia were obtained through the depositions of a number of persons from Albanian and Muslim terrorist organizations in the Federal Republic of Yugoslavia and were corroborated from several sources. Identification data on over 100 persons from these groups are also available.

21. In 1993, a large number of ethnic Albanians were tried in the courts of the Autonomous Province of Kosovo and Metohija for terrorist activity. In the District Court of Pec, criminal proceedings were conducted against 23 persons for the criminal act of threat to the territorial integrity of the Federal Republic of Yugoslavia, in which 22 persons were pronounced guilty and the charges against 1 person were dismissed. In the District Court of Prizren, criminal proceedings were conducted against 18 persons for the criminal act of threat to the territorial integrity of the Federal Republic of Yugoslavia and the criminal act of association for hostile activity. Of these 18 persons, 17 were pronounced guilty and the charges against 1 person were dismissed. In the District Court of Gnjilane, criminal proceedings were conducted against 5 persons accused of being members of an illegal hostile organization aimed at seceding the part of the territory of the Federal Republic of Yugoslavia populated by ethnic Albanians from the rest of the country. The case has not yet been completed as the court decision has been appealed. Criminal proceedings were conducted in the District Court of Pristina against 18 persons accused of the criminal act of association for hostile activities and the criminal act of threat to the territorial integrity of the Federal Republic of Yugoslavia. Out of these 18 persons, 17 were sentenced to 1 to 10 years in prison, while in one case the charges were dismissed.

22. All these proceedings were conducted according to the law and their legality was not contested nor were complaints made as to the treatment accorded the accused as members of minority groups.

23. Besides, the so-called Independent Trade Union operates in the territory of the Autonomous Province of Kosovo and Metohija, which is in fact a kind of party militia involved in racketeering and the intimidation and punishment of Serbs and disloyal Albanians. About 50 persons in each municipality are under arms; they have not yet been apprehended since they have gone underground.

24. The existence of terrorist activities in Raska was revealed by the evidence obtained after the apprehension and arraignment of 25 Muslims from that region last year, charged by the District Public Prosecutor of Novi Pazar on 18 October 1993 with the commission of the criminal act of threat to the territorial integrity of the Federal Republic of Yugoslavia. Out of these 25 persons, 17 were accused of the criminal act of illicit procurement, stockpiling, carrying, manufacturing, exchange or trade in arms and explosives. According to the indictment, the accused persons established in the period between May 1991 and May 1993 military and police formations and units with headquarters in "Sandzak" and larger urban centres. Terrorist groups were set up and trained in Yugoslavia and abroad, in addition to the so-called "black troikas", for silent liquidation of individuals, sabotage activities, etc.

25. Upon arrest, maps and plans of combat activities in the territory of Raska were seized, as well as various lists and documents on the preparation of terrorist activities, such as the decision on the creation of the corridor between the former Bosnia and Herzegovina and the so-called Sandzak, connecting Foca, Gorazde, Cajnice, Rudo, Visegrad, Pljevlja, Priboj, etc.

26. Far from being a political process or a process initiated to try members of a particular national minority or political organization, the trial in question is a textbook case of the legal and legitimate suppression of terrorist activity.

27. All the facts relating to this and other matters notwithstanding, the Federal Republic of Yugoslavia and its judicial authorities consider themselves obligated to treat all persons, including those on trial and possibly convicted for terrorist activity, in accordance with the law and to respect their human rights.

28. The Federal Republic of Yugoslavia supports and has signed international legal instruments relating to the prevention and punishment of terrorism and welcomes the efforts of the international community to suppress international terrorism, which is a threat to international peace and stability and constitutes a serious violation of human rights and fundamental freedoms. The Federal Republic of Yugoslavia has incorporated in its legal system the legal mechanisms for protection against terrorism and the suppression of terrorist actions in its territory.

29. However, Yugoslavia has been the target of terrorist threats and actions, aided and abetted by some foreign countries, Albania and Turkey in particular.

30. The Government of the Federal Republic of Yugoslavia welcomes and fully supports the efforts by the United Nations Secretary-General aimed at suppressing terrorism and its destructive consequences for the realization of human rights and fundamental freedoms.

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Agenda items 93 and 94

ELIMINATION OF RACISM AND RACIAL DISCRIMINATION

RIGHT OF PEOPLES TO SELF-DETERMINATION

Letter dated 25 October 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia addressed to the Secretary-General

In connection with the statements made by the representatives of Albania on 14 and 17 October 1994 and of the Republic of Croatia and the Muslim delegate of Bosnia and Herzegovina on 17 October 1994 in the Third Committee during the consideration of the items "Right of peoples to self-determination" and "Elimination of racism and racial discrimination", which were replete with untrue, malicious qualifications and unsubstantiated allegations, upon the instructions of my Government, I have the honour to state the following:

The Federal Republic of Yugoslavia is not a party to the civil war that has been unfolding in the territory of the former Socialist Federal Republic of Yugoslavia. The premature recognition of the former Yugoslav republics, under the pretext of the respect for the right of peoples to self-determination, led to the breakup of the former Yugoslav federation. It is evident that no aggression or interference by the Federal Republic of Yugoslavia in these conflicts has taken place. This fact has been acknowledged in the reports of the Secretary-General on the situation in the territory of the former Socialist Federal Republic of Yugoslavia.

Charges that the Federal Republic of Yugoslavia is responsible for the continuation of the civil war in the former Bosnia and Herzegovina are totally unwarranted since the Government of the Federal Republic of Yugoslavia accepted all peace plans, including the latest plan of territorial settlement by the Contact Group. In order to facilitate the acceptance of the peace plan by the Bosnian Serbs, the Federal Republic of

Yugoslavia has closed its border with the Republic of Srpska, except for foodstuffs, medical supplies and clothing for humanitarian needs. The closure of the Yugoslav border has been confirmed in the letter from the Secretary-General of the United Nations transmitting the report of the Co-Chairmen of the International Conference on the Former Yugoslavia addressed to the President of the Security Council S/1994/1124 and reflected in Security Council resolution 943 (1994) on the suspension of the sanctions.

There are no innocents in a civil war. Horrible crimes and atrocities have been committed by all parties to the conflict in the territory of the former Socialist Federal Republic of Yugoslavia. The Federal Republic of Yugoslavia has always maintained that all those responsible for atrocities and breaches of humanitarian law in the ongoing civil war in the former Bosnia and Herzegovina, as well as in Croatia or elsewhere, by whomever they are committed, should be brought to justice.

What is intricate is that while the United Nations is being exposed to misleading appeals about the need to "help the people of Bosnia continue their history of multiculturalism and peaceful co-existence", the Government of the former Bosnia and Herzegovina is pursuing a somewhat different agenda on the ground. The thesis of multicultural interweaving that Mr. Izetbegović and his supporters vocally advocate is nothing but a guise to maintain a vision of unitary Bosnia and Herzegovina in all its aspects of life. This has recently been brought into the limelight by journalist Roger Cohen of The New York Times. In his article of 10 October 1994, entitled "Bosnians Fear a Rising Islamic Authoritarianism", Mr. Cohen mentioned a letter sent by the Bosnian Culture Minister, Enes Karić, to the host of a radio show in Sarajevo ordering him to stop playing "aggressor music" - songs performed by the Serbs. Another official, Mirsad Cerman, the Secretary-General of the Party of Democratic Action, was quoted as saying:

> "Our attitude is that mixed marriages should not be a model, as they were under the Communists. We think mixed marriages are a condition we have to tolerate, but not the way to have good communication between nations. Now, a normal Muslim will marry a Muslim woman and others will be the exception."

In compliance with the aforementioned statements is also Mr. Cerić, spiritual leader of Bosnian Muslims, who, among other things, urged all Muslim women to have at least five children (two for themselves and three for Bosnia) and proclaimed mixed marriages to be "genocide against the Bosnian Muslims".

In the case of Croatia, the situation can be depicted as one where extremism and irrationality are the order of the day. Massive ethnic cleansing of the Serb and other non-Croatian population is still under way. In the Secretary-General's report (S/25777 and Corr.1) it was confirmed that more than 250,000 Serbs had fled from Croatia to Serbia and United Nations Protected Areas. Nevertheless, in the Croatian vocabulary, self-determination is apparently synonymous with predetermination as ordained by

Croatia. Henceforth it is on this premise that Croatia bases its senseless claim that areas under the protection of the United Nations, where the Serbian people constitute a majority, represent "occupied territories of Croatia". What Croatia wants is to expose the entire Serbian population to all forms of pressure and subjugation. Such an environment already exists in some parts of Croatia where those who are not of Croatian origin have been evicted from their apartments and forced to change their names. Very often children have been converted (re-baptized) to the Catholic faith. Recently, the Croatian constitutional court decided that the Serbian Democratic Party is to be banned, accusing it of being one of the principal organizers of a "rebellion against the constitutional order". This is a blatant example of denying a right to freedom of association in Croatia.

As regards Kosovo and Metohija, which is the official name of this province in the Republic of Serbia, the Government and many other competent institutions in the Federal Republic of Yugoslavia have on numerous occasions made available all relevant information concerning the situation in the field. It is a fact that there is no violation of human rights of the Albanian minority by the legitimate authorities of the Federal Republic of Yugoslavia in Kosovo and Metohija. The truth is rather that the political leaders of this minority are trying, instigated and financially supported by Albania, to carry out secession, that is, to annex part of the territory of the Federal Republic of Yugoslavia to Albania, not recognizing legitimately elected Yugoslav organs and institutions, and rejecting any cooperation with them. It is obvious that Albania is abusing human rights issues as a means directly to encourage secession and interfere in the internal affairs of the Federal Republic of Yugoslavia.

Albania's discriminatory attitude towards national minorities is part of its large-scale undemocratic practice of violation of human and civil rights. This is evinced by the recent trial of members of the Greek national minority, attempts to displace forcibly dozens of Serbian and Montenegrin families and rigged court trials of political opponents. With its policy of interference and confrontation with all its neighbours, Albania has been increasing tensions and threatening peace and stability in the region.

The fact that the statements of the above-mentioned representatives addressed alleged systematic abuses committed against the Hungarians, Croats and Muslims in Vojvodina and the Sandžak, is not only outside the scope of the agenda items being discussed but an outrageous fabrication and distortion of the truth by those whose overall records show that they are far from the respect of the principles of pluralism, democracy and ideals of multi-ethnic societies. Clear resolve on their part to abandon militant stands and hostile propaganda could be the best way to contribute to the peaceful resolution of the crisis in the territory of the former Socialist Federal Republic of Yugoslavia.

I should be grateful if you would have the present letter circulated as an official document of the General Assembly, under agenda items 93 and 94.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.

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RIGHT OF PEOPLES TO SELF-DETERMINATION

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 15 November 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Portugal to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text, in English, of a statement by the Government of Portugal on the prevailing situation in Djakarta and East Timor, issued at Lisbon yesterday (see annex).

I would be grateful if you would have the text of the present letter and its annex circulated as an official document of the General Assembly under agenda items 94 and 100 (c).

(Signed) José Tadeu SOARES
Ambassador
Chargé d'affaires a.i.

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ANNEX

Statement dated 14 November 1994 by the Ministry of Foreign Affairs of Portugal on the prevailing situation in Djakarta and East Timor

The Ministry of Foreign Affairs is following closely and with great concern the latest events in Djakarta, where 41 East Timorese people have been detained while trying to enter the grounds of the American Embassy and 29 more are already inside the compound of that diplomatic mission, as well as the events taking place in East Timor, where demonstrations by civilians have occurred in Dili and several other towns. One East Timorese has already been killed in circumstances yet to be clarified and there is news of a large number of wounded. It is feared that during today's funeral of the deceased new clashes may occur.

The Portuguese authorities are conducting contacts and consultations with other Governments, namely the Government of the United States of America, and international bodies in order to seek assurances of safety and prompt liberation for all detainees and the access to them by humanitarian organizations.

These events show once more the need to find without delay a solution to the question of East Timor that takes into full consideration the legitimate rights of its people. On the other hand, the painful background of violence and repression that has been forced upon his territory should lead the international community to follow with the greatest attention the future developments in this situation and to denounce any new human rights abuses that may occur.

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ITEMS ALLOCATED TO THE THIRD COMMITTEE

Letter dated 14 November 1994 from the President of the General Assembly addressed to the Chairman of the Third Committee

I have the honour to inform you that at the 56th plenary meeting of the forty-ninth session, held today, the General Assembly decided to allocate the agenda item entitled "Capital punishment" to the Third Committee as sub-item (e) of agenda item 100 (Human rights questions).

(Signed) Amara ESSY

94-45296 (E) 161194 171194

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Agenda item 99

REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, QUESTIONS RELATING TO REFUGEES, RETURNEES AND DISPLACED PERSONS AND HUMANITARIAN QUESTIONS

Letter dated 21 November 1994 from the Permanent Representative of the former Yugoslav Republic of Macedonia to the United Nations addressed to the Secretary-General

I have the honour to inform you, in reference to the letter dated 27 October 1994 1/ from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations, and its annex, addressed to Your Excellency, of the following:

After the dissolution of the former Socialist Federal Republic of Yugoslavia, the Republic of Macedonia has clearly distanced itself from all war options and has managed to stay away from ethnic conflicts and bloodshed. We have peacefully exercised our right of self-determination through a referendum and with the adoption of a constitution.

The army of the former Socialist Federal Republic of Yugoslavia has withdrawn from the territory of the Republic of Macedonia with no incidents whatsoever.

The Republic of Macedonia is a peaceful and democratic society in which human rights are respected, a society that has given shelter to tens of thousands of refugees from the war-torn former Yugoslav Republics.

The Government of the Republic of Macedonia takes special pride in the fact that it has neither legally nor factually acted towards forceful expulsion of

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its own citizens or citizens of any other country, including those of the former Socialist Federal Republic of Yugoslavia.

Under such circumstances, which are in full accordance with international standards of civilized behaviour, there has to be a serious misjudgement of the representative of the Federal Republic of Yugoslavia (Serbia and Montenegro) to claim "refugees" from the Republic of Macedonia in his country.

I should be grateful if you would have the present letter circulated as an official document of the General Assembly under agenda item 99.

(Signed) Denko MALESKI
Ambassador Extraordinary and Plenipotentiary
Permanent Representative

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 21 November 1994 from the Permanent Representative of the Sudan to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to enclose herewith the text of the response by the Government of the Sudan to the interim report on the situation of human rights in the Sudan (A/49/539) prepared by Mr. Gáspár Bíró, in accordance with Commission on Human Rights resolution 1994/79 of 9 March 1994, and Economic and Social Council decision 1994/265 of 25 July 1994.

It would be highly appreciated if the present letter and its annex were circulated as a document of the General Assembly under agenda item 100 (c).

(Signed) Ali Mohamed Osman YASSIN
Permanent Representative

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ANNEX

Response by the Government of the Sudan to the interim report on the situation of human rights in the Sudan prepared by Mr. Gáspár Bíró, as contained in document A/49/539 dated 19 October 1994

1. The profound changes in the international scene in the past few years and the search for a new international order, devoid of super-Power confrontations and ideological differences, has led to a new set of priorities for the international community. The demise of the Socialist bloc, and the compound social and economic problems faced by the countries of the third world, had a profound negative effect on the relations between the developed countries in general and the Western countries in particular, and the rest of the world, especially the third world. Items of a social and political nature have become prominent in the agendas of the various international bodies, including the United Nations. The concepts of sovereignty and non-interference in the internal affairs of countries, especially those that lag behind in their social and economic development, are being gradually relegated to the back burner. Conflict resolution, humanitarian assistance and human rights have come to occupy a central role in the discussion and concern of the international organizations, and in the instigation by and prodding of the Western countries. However, the consideration of these issues in the United Nations and its relevant bodies is not devoid of the political overtones that are reminiscent of the cold war era. As a matter of fact, political considerations and expediency of purpose have come to obscure the real issues, and the discussion of these items by the relevant bodies clearly reflects the cynicism of their initiators. This is especially so in the case of human rights.

2. Since its inception, the Commission on Human Rights has evolved into an important instrument in the United Nations family, ostensibly to prepare recommendations and reports on a wide range of declarations and all aspects of conventions on civil liberties, as well as any other matters concerning human rights. Alas, the performance of the Commission and its subsidiary bodies leaves much to be desired. Since the Commission came into prominence at the end of the cold war, the Western countries have concentrated much attention on its activities in an attempt to turn it into an instrument tailored to pursue and realize their own political and strategic objectives, making use in this respect of some flaws in the rules of procedure and methodology of work of the Commission. It has therefore come to acquire a reputation for selectivity in its approach to cases of human rights abuses, a lack of democratic practices in its voting and decision-making, bias in its staffing, procedures and appointments and coercion and insensibility in the administration of its meetings.

3. A case in point is what transpired at the forty-ninth session of the Commission, which led to much grumbling and criticism from the countries of the third world, and the consequent adoption of resolution 1993/98 of 12 March 1993, entitled "Rationalization of the work of the Commission". Unfortunately for the Commission, the word "Rationalization" was given different interpretation by the Western Group and the Movement of Non-Aligned Countries Group. The Working

Group established under the aforementioned resolution was met with two stumbling-blocks: the interpretation of the mandate by the Western Group, and the biased behaviour of the Chairman of the Commission, who happened to come from the Western Group. The deliberations of the Working Group lasted from 12 to 23 September. The results of the meetings were dismal, to say the least. Thus, while the Movement of Non-Aligned Countries Group called for a comprehensive rationalization of the agenda and working methods of the Commission, consistent with the purposes and principles of the United Nations as defined by its Charter, the Western Group, on the other hand, proposed a piecemeal approach based on step-by-step concepts, such as rationalizing the agenda of the Commission only. Again, while the Movement of Non-Aligned Countries Group affirmed that the guiding criteria of the work of the Commission should be based on the principles of impartiality, objectivity and non-selectivity of the considerations of all human rights issues, in a spirit of cooperative dialogue, the Western Group insisted on carrying on with the same technique, which has, in effect, increasingly reduced the effectiveness of the Commission, and advocating such techniques as investigation, pressure, criticism and condemnation.

4. As is well known, such a confrontational approach is inconsistent with the principle of international cooperation enshrined in the Charter of the United Nations, and especially of its Article 13. Since this article forms the legal basis for work on special procedures, comprising the rapporteurs, representatives, working groups and experts of the Commission and Subcommissions, their development on an ad hoc basis has led to a situation of ambivalence and has consequently adversely affected their credibility and impartiality. One of the most significant drawbacks to this development is the appointment of country rapporteurs, which has become, in effect, a highly political process. Their performances have become highly questionable, and their objectivity and impartiality in performing their assignments leaves much to be desired. The fact that there exists, presently, a geographical imbalance in their selection and appointment has proved detrimental to their performance, owing to their limited knowledge of the comprehensive domestic situation and contacts with the authorities concerned. The Commission's failure to provide them with guidelines for their work, codes of conduct and a criteria for admissibility of communications, and the absence of a relevant mechanism for regular review and supervision of their work by the Commission have resulted in a situation whereby they began to assume powers and freedom of action superseding their mandates and their obligations as international civil servants.

5. A case in point is the irresponsible behaviour of Gáspár Bíró, the Special Rapporteur of the Commission on Human Rights, who, in flagrant violation of the rules and regulations that govern the conduct of international civil servants, openly sides with the opposition factions and participates actively in their meetings and activities, some of which are held under the auspices of missionary groups in foreign capitals. The open support and encouragement accorded to him by the Western Governments and the lame excuses offered by the Centre for Human Rights for his unprecedented behaviour can only enhance the growing scepticism of the third world countries of the seriousness of purpose of the Commission on Human Rights, a misnomer in the view of some, which should be corrected to "Commission on Political Expediency".

6. The lack of impartiality was not, however, restricted to the appointed officers of the Commission but extended unfortunately to the management of the Commission's meetings. The behaviour of the Chairman of the Commission at the fiftieth session, for example, cannot under any circumstances be described as fair or exemplary. He was given to interrupting delegates during the delivery of their statements, instructing them to speak along prescribed lines, or ruling them out of order if the substance of their statement did not conform with his views on the item. Such interruptions were carried out, on a selective basis. He held press conferences in which he attacked by name delegations whose views happened to be at variance with those of the Western countries. A point in case was a note by the delegation of Cuba at Geneva on 14 October 1994 addressed to him, in response to a declaration made by him to the press, in which he attributed "responsibility to a group of countries, among them Cuba, for the lack of results of the session of the open-ended informal Working Group on the rationalization of the work of the Commission on Human Rights". Such a declaration by the Chairman was, in fact, flying in the face of truth, since the failure of the consultation can squarely be placed at the doorstep of the Western Group, for adopting a completely negative stance towards all the proposals put forward by the Movement of Non-Aligned Countries Group, for insisting on deleting certain items from the agenda of the Commission, for abusing the procedure of consensus in stalling any genuine reforms and for refusing to democratize the voting system in the Commission. The Chairman had contributed significantly to these dismal results by his open hostility to the delegations of the third world, for his bias against the proposals submitted by the Movement of Non-Aligned Countries Group and the African Group, and for his unprecedented resort to the media to vent his anger at some delegations, which he classified as obstructive to the designs of the Western Group.

7. The politicized approach of the Commission on Human Rights with regard to the country situation reporting is emphasized in two aspects: the methods by which the special rapporteur is appointed, and the exercise of requesting an interim report to the General Assembly and a full report to the Commission, thus ensuring that the country in question is subjected to a continuous adverse publicity, as well as international pressure and censorship. The absence of transparency in the selection and appointment of special rapporteurs has given rise to a consistent and often irrefutable suspicion as to their bias in favour of the policies and objectives of those Governments that have proposed their names in the first instance.

8. In the case of Gáspár Bíró, the Special Rapporteur on the situation of human rights in the Sudan, his name was proposed by a Government that pursues a consistently confrontational approach towards the Sudan, and his appointment was confirmed by a Chairman whose Government does not hide its hostility to the Government of the Sudan. On the other hand, the Commission has had absolutely no say in his appointment. It was, therefore, no surprise that he maintained a hostile attitude to the officials of the Government of the Sudan. Such an attitude was best illustrated in an interview he gave to the Washington Post on 26 March 1994, in which he stated: "I lived always with one foot in prison. I know well how totalitarian Governments operate, how they think they can hide things and what they try to do. I think perhaps the Sudanese overlooked that possibility when they let me in the country." Such are the words of a man who

was determined from the start to prosecute and incriminate rather than monitor and investigate.

9. In his determination to condemn the Government of the Sudan, Gáspár Bíró seems to have lost sight of the principles that should have guided him in the implementation of his mission as a United Nations official, namely, the principles of impartiality, objectivity and non-selectivity. His frequent association with the opposition factions in foreign capitals, including his recent acceptance of an invitation by the Secretary-General of the Arab Lawyers Union, who is a Sudanese national dedicated to the overthrow of the Sudanese Government, has in fact involved the Centre for Human Rights and the Commission in internal Sudanese politics. The allegations and disinformation propagated by the opposition factions in the media of some unfriendly Powers were given credibility in United Nations documents through the relentless efforts of Gáspár Bíró, and these allegations were thus transformed into information from reliable sources, in the words of the Special Rapporteur. It is this technique, and his flagrant and insensitive attack on Islam which led the Government to reject him, in his role as Special Rapporteur on human rights in the Sudan, without, however, outruling the possibility of having his mission being carried over by another qualified, impartial and professional rapporteur.

10. The Special Rapporteur has introduced his report (A/49/535, annex) by an outline of his mandate in paragraphs 1-8. Ironically, he missed the backbone of his mandate, namely, the criteria for admissibility and reliability of the information submitted to him. We are not being theoretical because other expert bodies of the Commission on Human Rights (the Subcommission on Prevention of Discrimination and Protection of Minorities) have addressed that issue as early as 1971, but it seems that the Special Rapporteur has a long way to go before he qualifies for his mandate. That lack of professionalism explains why the Special Rapporteur has admitted and relied upon, in paragraph 21 of his report, the hearsay testimony of one single man who testified about an incident that took place in June-August 1992, despite the fact that the Special Rapporteur has visited the Sudan three times since that date and nobody else ever mentioned that incident to him. Also, when enumerating the decisions taken against the Sudan in the field of human rights he did not explain that the resolution of the General Assembly in 1992 was premature because it was passed before he had submitted his report. In addition, in its 1993 decision, the Commission disregarded this recommendation and the recommendation of the Working Group to extend his mandate under the confidential procedures for one year.

11. In paragraphs 9-13 of his interim report, he has unambiguously explained that the interim report was based only on stories told by self-exiled opposition groups or individuals in Nairobi, Uganda or Cairo. What would anyone in his full senses expect of such individuals or groups? As he has rightly reported, the Government of the Sudan has not invited him to visit the country, but he did not explain the circumstances of the Government's position, bearing in mind that it had received him three times previously. He was not invited because he has called for the abolition of Shariah Law, thereby violating the religious freedom of the Sudanese people guaranteed by principal human rights declarations and covenants. That course of action by the Government will continue as long as he maintains his unprecedented position towards Shariah Law. But we don't believe

he should be allowed to use the obstacles created by himself to pass a default judgement on the Government.

12. The Sudan has repeatedly expressed its lack of confidence in the professionalism and impartiality of Gáspár Bíró as the designated Special Rapporteur for human rights. It has cited several examples of his bias against the constituted authority and institutions of the country, his unabashed collusion with the opposition factions, including the rebel groups, and his public statements against the Government to the media. Yet, the Commission and, in particular, the Western Group continued to brush aside the Sudan's remonstrations, and to give him open and unqualified support, while the Centre for Human Rights made excuses to the effect that the ultimate decision lies with the Commission and its Chairman. This gives rise to a situation where a foreign country and a Member of the United Nations is denied its right to call for a redress of a grievance and an injustice inflicted upon it by an official of an international body and, at the same time, the official is provided with every encouragement to carry on with his activities, no matter how irrelevant they are to the implementation of his mandate, and without due regard to the provisions of Article 13 of the Charter.

13. The interim report prepared by Gáspár Bíró and presented to the Third Committee under agenda item 100 (c) in document A/49/539, on the whole repeats the allegations previously mentioned in his interim reports to the General Assembly and in his full reports to the Commission. Since the respective Sudanese delegations have dealt with these reports at length in their official statements before the General Assembly and the Commission, and in two comprehensive documents distributed to the members of these august bodies under the numbers A/C.3/48/17 and A/49/82, we shall not dwell on these allegations lest we repeat previous arguments and waste the time of the Third Committee. We shall concentrate instead on those new aspects of the report, whereas Gáspár Bíró tried to introduce new cases of enforced or involuntary disappearances and of torture and other cruel, inhuman or degrading treatment.

14. In all these reported cases, the allegations that Gáspár Bíró claims were brought to his attention were of an individual nature and despite his apparent attempt to cast a bleak shadow on the actions ascribed to the Government, the fact remains that he had to admit that, in most of these cases, the persons concerned were set free after short periods of detention. In one of the reported cases, he exhibited his ignorance when he referred to one of the politicians mentioned in his report as "Father", thus mistaking his name as a title implying that he is a priest.

15. Gáspár Bíró has also failed to mention that the main source of information, or rather disinformation, supplied to him is the "Arab Lawyers Union", which is only a faction of radical opinion in the Arab countries, and is led, or in fact manipulated, by an aspiring Sudanese politician, active in opposition circles.

16. Bíró's reference in his interim report to the arrest of some Sudanese politicians on charges of participating in a subversive plot of bombings and assassinations against key government figures failed to mention the charges against them and the subsequent statement issued by the leader of the political party to which they belonged, in which he condemned the act and stated that "we

thank God that it has not reached the level of implementation". The same statement went further to explain that the said detainees had never been subjected to torture and that the proper treatment extended to them included medical care.

17. Gáspár Bíró's reference in his interim report to a riot caused by the students of a provincial university constituted, in his view, enough ground to call for the intervention of the international community. To put that incident in its proper perspective it is worth mentioning that the Government of the Sudan has, within a record time, established more than 15 new universities and colleges, depending on its own meagre resources. That being the case, one single riot by students calling for better living conditions should not be something for the Special Rapporteur to write about. Surely the Special Rapporteur, in this instance, has exhibited a lack of a sense of proportion.

18. In addressing the issue of violations and abuses in 1994, Gáspár Bíró concentrated his remarks mainly on the question of Sudanese refugees in neighbouring countries, notwithstanding the fact that these issues have been and continue to be discussed in the respective organs of the Office of the United Nations High Commissioner for Refugees (UNHCR), and the selective highlighting of some aspects in this problem could, in his estimate, result in a negative trend against the Government in the Commission's discussion. Having stated the unavoidable fact that most of the population in the combat zones moved to safer areas under government control and that only a small percentage has taken refuge in some neighbouring countries, the Special Rapporteur shied away from explaining that had it been for the free will of that small percentage, they would certainly have opted to move to government-controlled areas where they would be properly received, but their proximity to the borders left them with no other alternative but to cross the borders to the neighbouring countries. Such explanation, which the Special Rapporteur deliberately avoided, is evidenced by the daily voluntary return of those refugees to government-controlled areas whenever they find the chance to do so. There is no mention of rebel interfactional fighting, which is, in fact, the main cause of civilians seeking refugee status in neighbouring countries, nor is there any reference to the daily and increasing number of refugees returning to their homes after they have been made secure by government forces.

19. The reference to aerial bombardment by government forces was lifted intact from foreign media publications and reports. These reports and releases were part of a campaign carried out by circles supportive of the rebel movement, at a time when the rebel morale was at its lowest ebb and their forces were on the verge of collapse. Although the media reports insisted that the bombings deliberately targeted civilian targets, no casualties were mentioned, with the exception of the wounding of a woman. As for the fighting in Kajo Kaji, and the subsequent displacement of civilians from the region, the report does not refer to the fact that this town was used by the Sudan People's Liberation Army (SPLA) Torit faction as its military headquarters, while Kaya forms the major crossing centre for its military supply route. The erroneous statement by Bíró that the principal objective of bombing of civilian targets "is to clean determined areas of its population and to prevent displaced persons from settling and becoming self-sufficient" is only a case in point of his prejudice, since it is the Government which will have to rehabilitate these areas, once they have been

liberated from rebel control, and provide their populations, including returnees, with the means to cultivate their land and to build their huts, as it is the case with other areas further away from the areas of military conflict. As a matter of fact, food production in many of the southern states, which have been made secure, will make them less dependent on relief assistance.

20. It is interesting to note that, for the first time in his handling of human rights in the Sudan, Gáspár Bíró referred to atrocities against civilians being committee by the SPLA factions. However, he could not bring himself to be even-handed in his reference to cases attributed either to the government forces and the rebel factions. While the activities by the government forces were described as indiscriminate and deliberate, those ascribed to the rebel forces were hedged with phrases such as "following heavy fighting" and some were even attributed to individual acts.

21. It is in his reference to the case of "unaccompanied minors" that Bíró exhibits his bias against the Government to its utmost. His attempt to put the north at par with the south in recruiting minors for military training is flying in the face of truth. The north, with a population exceeding 20 million - apart from the 5 million in the south - has more than enough persons of military age to recruit for its military establishment, whenever the need arises. It is in fact the rebel movement that is nearing the exhaustion point in finding recruits for its military forces, and which has frequently and regularly resorted to raiding refugee camps in neighbouring countries to secure new recruits, including minors. The Sudanese Government has persistently raised these issues with the respective United Nations bodies, to put an end to this practice, and to repatriate the minors to the Sudan to be rejoined with their families. Alas, such appeals went unheeded by these bodies, while some neighbouring countries went as far as to prevent government representatives from visiting these camps and to verify what has become common knowledge as to the behaviour of the rebel movement and the collusion of certain circles in this sordid affair.

22. The attempt of Bíró to cover up for the SPLA-Torit, by including in his report statements by rebel officials and commanders to the effect that "only boys older than 14 can be conscripted into the fighting units of SPLA" or, again, that Commander Salva Kiir stated to him that the SPLA-Torit is "committed and in fact does respect the provision of the Convention on the Rights of the Child", and his apparent willingness to accept this assurance at face value, can only add insult to injury and make a farce of his attempt to appear even-handed.

23. As for his remarks relating to the distribution of relief assistance, Gáspár Bíró seems to have set out to turn the fact of the matter around and to lay the blame at the doorstep of the Sudanese Government, by implying that the Government is deliberately trying to starve the population in the areas under its own control. In displaying such a negative attitude, he seems to be overlooking the fact that the food supplies to the areas in need were largely supplied by the Government, the barges and trains transporting these supplies are owned by the Government and cargoes seized from the barges and trains were actually acts of brigandage carried out by the rebel factions along the routes of Juba and Wau. The Sudanese Government has offered on several occasions to send military contingents to guard the barges and trains, but the United Nations officials turned down these offers on the flimsy and naive pretext that no

military contingents can travel under the United Nations flag. Such an excuse sounds strange indeed when one recalls the situation prevailing in Rwanda or for that matter in Bosnia and is contrary to the spirit of cooperation which should prevail between the United Nations and the officials of the host country.

24. As for Bíró's reference to the flight clearance requests and their handling by the authorities, he seems to be venturing into an area beyond the competence of his mandate. The proper authorities to deal with flight clearance and other related areas are the Sudanese Government, the Department of Humanitarian Affairs of the Secretariat, the International Committee of the Red Cross (ICRC) and those non-governmental organizations that are operating in the field and registered with the Sudanese authorities, which are more or less operating in harmony and continuously improving on the rules and procedures as they gain more experience. To deal with this are in a report on human rights and to attempt to reflect on some aspects out of context and on a selective basis is proof that Bíró is handling his mandate in an irresponsible manner.

25. The same can be said about his brief reference to the problem of land-mines. His reference to the government forces in this respect is unfortunate, since it is the rebel movement that resorted to an extensive use of land-mines supplied to it by some of its foreign backers, in its desperate attempt to hold onto the few towns and territories still under its control, or in its earlier attempts to bottle up the government troops in some towns, when it had the upper hand militarily. Suffice it to state that most of the government casualties are from anti-personnel and land-mines, as the armed forces move on to recover the territories that were still under rebel control. The problem of land-mines has led the Sudan to seek assistance in mine clearance by co-sponsoring General Assembly resolution 48/7 of 19 October 1993, entitled "Assistance in mine clearance", and the draft resolution at the forty-ninth session of the Assembly as well.

26. In his earlier reports the Special Rapporteur misconceived the causes of displacement in the Sudan and accused the Government of ethnic cleansing. The Government authorities cordially tolerated the accusation and in good faith attributed it to his lack of experience by explaining to him time and again that displacement in the Sudan was caused mainly by war and drought and that the Government was exerting unabated efforts to overcome those causes and ultimately bring the displaced persons back to their homelands at a later stage when the Government was preoccupied in the rehabilitation of the so-called "peace settlement". Now, after having distorted the image of the Government in that respect, he acknowledges in paragraph 78 of his report the recent reports of the United Nations agencies which reveal that the government authorities are coordinating the voluntary return of 3,995 families. But even then he wouldn't let the Government enjoy that tremendous achievement by reporting in paragraph 79 that he was very much concerned about the manner in which the repatriation was being carried out. And we can tell beforehand that soon after he satisfies his unwarranted worries about the manner in which the repatriation process is carried out he would come and report back new worries about the future prospects of those repatriated. Those remarks on the question of the repatriation of the displaced are again irrelevant to this report and are designed to lead the Commission to the wrong conclusions. Repatriation is

carried out with the consent of those who want to return to their homelands, already secured and pacified.

27. The Government of the Sudan has expressed its position with regard to Gáspár Bíró beyond any shadow of a doubt, its lack of confidence in his integrity and impartiality as a United Nations official entrusted with investigating the situation of human rights in the Sudan and its concern and disappointment at the way the Commission has been politicized and abused in the pursuit by some to achieve certain political objectives. The respective covenants and treaties on human rights and international humanitarian law have been subjected to so much political manoeuvring in the pursuit of expedient objectives that human rights began to lose much of their lustre, and became a cause of concern to many of the third world countries. The Foreign Minister of France, in an article he contributed to the International Herald Tribune on 3 November 1994, has this to say: "In many parts of the world, the impression is spreading that the democracies are twisting international law for their own benefit. By making the effort to be clear and responsible, we shall consolidate the force of international law." For its part, the Sudan fully agrees with this view. It stands ready to play its part in enhancing respect for international law, for human rights - starting with its own territory - and for cooperation with the respective United Nations bodies in evolving and pursuing standards and policies designed to eliminate any violations of human rights, which may come or be brought to its attention. To this end, the Sudan has requested technical assistance from the Centre for Human Rights to train its personnel in the respective government agencies that have to do with human rights. The Government is happy to note that the United Nations High Commissioner for Human Rights has promised to do his utmost to respond positively to this request.

28. The Government wishes to avail itself of this opportunity to assure the members of the Third Committee that it will cooperate fully with the Commission and the Centre, and at the same time reiterate its position that it will not deal with Gáspar Bíró or submit to any coercive moves to impose his unwelcome presence on its territory for the reasons explained in detail in the following paragraphs.

29. According to Commission on Human Rights resolution 1993/60 of 10 March 1993, the Special Rapporteur for the Sudan, Mr. Gáspár Bíró, was requested to submit a report on the situation of human rights in the Sudan to the Commission at its fiftieth session and an interim report (A/48/601) to the General Assembly at its forty-eighth session. To our dismay, this report to the Commission (E/CN.4/1994/48) proved that the Special Rapporteur has worked ultra vires not by exceeding his limits here and there, but according to a totally different agenda, which has no relation whatsoever to resolution 1993/60. The main objective of that agenda is the abolition of Shariah laws in the Sudan, and its tools are the collection of allegations of human rights violations from whatever source.

30. In his report to the Commission (E/CN.4/1994/48), Mr. Bíró called for the abolition of certain provisions of the Sudanese penal law, which are based on Shariah law, and said in paragraph 61 of his report, "it does not matter in this context who the drafter is, nor what the sources of inspiration of these norms are", a language which is regarded as profane and unsuitable. Accordingly, the

Government of the Sudan declared the position of not allowing Mr. Bíró on its soil and territory while indicating its preparedness to resume its unreserved cooperation towards any other official the Commission on Human Rights deems fit to carry out the mandate presently assigned to Mr. Bíró.

31. The Special Rapporteur has kept vigil over the application of Shariah in the Sudan, in particular the penal legislations, in complete disregard of the freedom of religion guaranteed by various human rights conventions. He was particularly haunted by that issue to the extent of using profane language and desecrated composition and concluded by calling for its abolition, thereby hurting the feelings of Muslims worldwide. He uncompromisingly used his reports to attain that objective, turning a blind eye to the limits of his mandate and the requirements of credibility and reliability of information called for in Commission resolution 1993/60. His actions, combined, amount to a violation of the provisions of Article 2, paragraph 7 of the Charter, as well as article 24 of both the Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights.

32. Gáspár Bíró's criticism and adverse comments on the Islamic Shariah echoed worldwide and generated protests all over the Islamic world. The final communiqué of the Annual Coordination Meeting of the Ministers for Foreign Affairs of the States members of the Organization of the Islamic Conference, held at the United Nations in New York on 28 Rabiul Thani 1415 H. (3 October 1994) touched on the issue by providing, in its paragraph 42, the following: "The meeting took note of the statement of the Foreign Minister of the Sudan concerning the adverse comments on the Islamic Shariah contained in the report of the Special Rapporteur for Sudan and affirming that any criticism of the principles of the Islamic Shariah is inadmissible and unacceptable".

33. According to paragraph 3 of Commission resolution 1993/60, the Special Rapporteur should have been "an individual of recognized international standing and expertise in human rights". But he does not meet those high qualifications in view of his age (he was born on 16 June 1958) and poor curriculum vitae, compared with the other experts of the Commission, who have been on the job since before he was born. This fact tainted his reports, which are no more than a collection of allegations, instead of being careful studies of allegations in the light of the recognized concepts of evidence, including admissibility, weight and corroboration. But nowhere in his reports do we find reference to these fundamental concepts. Judging from our experience with the Special Rapporteur, he failed to distinguish between "allegations" and "evidence", a distinction which is very pertinent to his mandate. Another example is his failure to set objective criteria for judging the credibility and reliability of the information as expressly requested in paragraph 5 of resolution 1993/60.

34. By his acts and manner of reporting, Mr. Gáspár Bíró has violated "The Standards of Conduct in the International Civil Service of 1954" as set out in the report of the International Civil Service Advisory Board prepared in response to the request of the Administrative Committee on Coordination at its twelfth session in October 1951, and in particular, paragraph 20 of the said report which reads:

> "It is also the duty of the staff members to avoid any action which would impair good relations with Governments, or destroy confidence in the Secretariat - such as public criticism of, or any kind of interference with, the policies or affairs of Governments. For international civil servants, either individually or collectively, to engage in any active criticism of a Government or in any activity which undermines or discredits its authority, is incompatible with their status. A fortiori, any direct or indirect activity with a view to the overthrow of a Government by force, including incitement or advocacy of such overthrow, is one of the gravest forms of misconduct."

and paragraphs 33 and 36 of the above report, which read, respectively:

> "33. In view of the independence and impartiality required by their status, it is an essential principle that international civil servants, while retaining their right to vote, should refrain from political activities. It is participation in political partisanship, or the public manifestation of views on questions of public controversy, and not the holding of beliefs and opinions, that will destroy or diminish the contribution of international officials to the work of the international organizations; in fact, it is not only permissible but desirable that staff members should take a lively interest in the important public questions of the day."

> "36. Within the broad field of political and public affairs, it is not sufficient to abstain from activities in the cause of a particular party. Public participation in any matters of national or international controversy must be ruled out by the staff member's code of conduct. Even membership in groups supporting resolutions or particular decisions of the international organization, when that support involves pressure on particular governments for action, may be inadvisable, since it may involve identification of the staff member with such pressure."

35. Mr. Bíró not only violated the code of conduct of United Nations officials as an international civil servant, but he actively participated in opposition activities against a Member country of the United Nations in flagrant violation of the mandate entrusted to him by Human Rights Commission resolution 1993/60. During the course of 1994, the political activities of Mr. Bíró against the Sudan included his active participation in public meetings organized by the self-exiled leaders of Sudanese opposition and other circles hostile to the Sudan in Washington, London and Bonn. It is the general conviction that United Nations officials, regardless of their personal conviction and political views, should not engage in such activities and should maintain an impartial attitude in accordance with the terms of reference of the Commission on Human Rights and the Charter, and the standards of conduct of the international civil service.

36. The fact that Mr. Gáspár Bíró has shied away in his report to the General Assembly (A/49/539) from his profane remarks as contained in his report to the Commission on Human Rights (see E/CN.4/1994/48, paras. 59, 60, 61 and 133 (a)) constitutes admission on his part of that adverse position and grave mistake, and ignorance of the culture and social values of others and, as such, cannot

justify his continuation as a Special Rapporteur on the human rights situation in the Sudan.

37. For all of these reasons combined, the Government of the Republic of the Sudan, after two years of unreserved cooperation, could not but reject Mr. Gáspár Bíró as Special Rapporteur for the situation of human rights in the Sudan, while reiterating its preparedness to cooperate with another qualified impartial and professional rapporteur to be appointed by the Commission on Human Rights.

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Agenda item 100 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 22 November 1994 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

On instructions from my Government, I should like to draw your attention to the fact that certain circles have for more than one year been making accusations against Iraq on the grounds that the new irrigation projects being executed in the marsh region of southern Iraq may have an adverse effect on the environment and on the nature and way of life of the population there, and thus, by extension, on human rights. Unfortunately, these accusations were seized upon by Mr. Max van der Stoel, Special Rapporteur on the situation of human rights in Iraq, and included in his report submitted to the Third Committee of the General Assembly on 8 November 1994 (A/49/651).

These accusations are not inconsistent with the general tenor of the malicious campaign being waged by some circles against Iraq. What causes surprise and objection, however, is that this campaign has taken certain Iraqi economic development projects as a pretext for raising the subject of human rights. It has also ignored the fact that the economic development project targeted for attack is an old project proposed and designed back in 1952 by United States and European consultancy firms with a view to promoting development in the lower marsh region of the Tigris and Euphrates for agricultural purposes. The initial phases of this project were begun at the end of the 1950s, and the work of execution was continued by the Ministry of Irrigation in collaboration with Soviet, German and Brazilian firms during the 1970s and 1980s. At the beginning of the 1990s, execution was halted by reason of the economic embargo against Iraq. For the selfsame reason, the Iraqi Government found that there was an urgent need to complete the execution of the project, drawing exclusively on Iraqi resources, and thereby make it possible to

drain the salt water and provide increased land for cultivation, enabling agriculture to do its share in reducing the impact of the food embargo on the Iraqi people.

In order to clarify the facts, supported by the documents on this project, I enclose a study on the background to the project and on the firms that participated in the execution, together with annexes containing reports of the firms, including United States firms, which had worked on the project since 1952.

I should be grateful if you would have this letter and the annexed study entitled "Ahdaf tahdhib majari al-anhar wa istighlal mawarid al-miyah fi janub al-Iraq" ("Objectives of the rechannelling of the watercourses and exploitation of the water resources in southern Iraq"), and its annexes,* as documents of the General Assembly under agenda item 100 (c).

Accept, Sir, the assurances of my highest consideration.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

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* The study and annexes are available for consultation in room S-2914.